

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOHN HARPER,  
Petitioner,  
v.  
STATE OF WASHINGTON,  
Respondent.

Case No. C05-5423FDB  
ORDER DENYING COUNSEL

This 28 U.S.C. § 2254 petition for habeas corpus relief has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. The petitioner has filed a motion for appointment of counsel. The Court, having reviewed the record, hereby finds and ORDERS:

(1) There is no right to have counsel appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required, because the action is civil, not criminal, in nature. See Terravona v. Kincheloe, 852 F.2d 424, 429 (9th Cir. 1988); Brown v. Vasquez, 952 F.2d 1164, 1168 (9th Cir. 1992); and Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts. An evidentiary hearing has not been granted in this case. Further, the claims in the

1 petition are adequately set forth and articulated. Petitioner's motion for appointment of counsel (Dkt.  
2 # 1) is therefore **DENIED**.

3 (2) The clerk is directed to send a copy of this Order to petitioner.

4 DATED this 13<sup>th</sup> day of July, 2005.  
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6 J. Kelley Arnold

/S/ J. Kelley Arnold

7 United States Magistrate Judge

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ORDER- 2